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Trends in Child Labor in Thailand

¶11. (U) Contradictory statistical surveys by various Royal Thai government (RTG) agencies involved in child labor issues make an estimate of the scope of the phenomenon in Thailand difficult. Children found in street peddling/begging and other illegal industries such as prostitution are generally overlooked in these accountings. In addition, RTG official surveys ignore non-Thai children who make up a proportion of those found in the worst forms of child labor, far outstripping their share of the general population. In a February 2000 national labor survey, 137,600 Thai children between 13-14 years were working, primarily on family farms, a practice not considered harmful under definitions in the Trade and Development Act. An additional 1.5 million children and youth in the 15-19 age bracket were in the labor force. This number represents a sharp reduction from a 1980 population and housing census, when 810,200 children aged 13-14 years, and 3.5 million children/youths aged 15-19 worked. It should be noted that the 1980 and 2000 surveys were conducted for different purposes, and with differing definitions and methodologies. However, independent observers of the issue agree there is a clear trend towards fewer Thai children entering the work force over the past two decades.

Better Education and Economy, Fewer Thai Children

¶12. (U) This trend is largely due to better educational opportunities, rapid industrialization of the economy requiring more skilled adults, and to decreasing fertility rates. An effective national planning program reduced the annual rate of population growth in Thailand from 1.9 percent in 1976 to 0.95 percent in 2003. During that period, children between the ages of 15-19 became a smaller slice of the demographic pie. In 1976, they constituted 10.8 percent of the total population; by 2003, that percentage had been reduced to 8.6 percent.

¶13. (U) With fewer children in the population, fewer were found in the workplace. In addition, some academics believe the economic crisis of 1997, which saw a sharp contraction in economic growth in 1998/99, further limited child labor. Fewer jobs were available for children, and at lower wages. Competition for the few jobs left increased from newly unemployed and under employed adults. Parents who normally expected children to provide income for the family therefore decided to place children in school instead of the workplace. As a result, unemployment of Thai youth increased more rapidly than for other segments of the population during the economic crisis. In 1995, 2.4 percent of youth 15 - 18 were unemployed; this rate quadrupled to 12 percent by 1999, far outpacing the increase in unemployment for adults.

Child Migrants

¶14. (U) During a first-ever accounting of migrant children in July 2004, 79,200 Burmese, Lao and Cambodian minors less than 15 years of age registered with Thai authorities. Children 15 -17 years of age were not disaggregated in the registration data, but likely reached the number of 12-14 year olds, or 20,000. Observers believe another 15-20 percent of migrants did not register, suggesting a total of about 120,000 foreign children in Thailand. Of these, NGOs believe the great majority older than 10 are employed. Burmese, Cambodian and Laotian children all work in Thailand, most the dependents of adult migrant workers. Agriculture, informal sector work, and light work in textile and jewelry factories constitute the most common employment for these children. The foreign child workers were seldom included in RTG surveys and labor inspection reports, however, as they were usually in Thailand illegally and are quickly processed for deportation once discovered.

15. (U) In March 2004, the RTG approved a new policy towards the 1-2 million migrants from Burma, Laos and Cambodia in Thailand. For the first time, children of migrants were allowed to register for one-year residence permits. The registration also allows migrant children access to the compulsory education system. However it is unclear whether the public school system, or non-formal education system, will be made available to the migrants. If effectively implemented, this policy should reduce the number of migrant children found in work in Thailand.

Legal Protections for Children

16. (U) In general, sufficient legal protections exist for children in the formal economic sector. The Labor Protection Act of 1998 is the primary law regulating employment of children under the age of 18. The minimum working age of 15, stipulated in the Labor Protection Act, is coordinated with the mandatory national education requirement of 9 years. Employment of children under 15 is prohibited in compliance with ILO Convention 138 (Minimum Age for Employment), which Thailand ratified in May 2004. Children between the ages of 15 - 17 may be employed, but the prospective employer must notify the RTG Ministry of Labor (MOL), and work is only permitted in occupations that are not considered hazardous or detrimental to the child's health. No more than eight hours of work per day are permitted for employers in the 15 - 17 age group. The list of prohibited occupations is extensive, and includes:

- metal melting, blowing, casting or rolling;
- metal pressing;
- work involving heat, cold, vibration, noise and light of an abnormal level which may be hazardous as prescribed in the Ministerial Regulations;
- work involving hazardous chemical substances as prescribed in the Ministerial Regulations;
- work involving poisonous microorganisms, which may be a virus, bacterium, fungus, or any other germs as prescribed in the Ministerial Regulations;
- work involving poisonous substances, explosive or inflammable material, other than work in a fuel service station as prescribed in the Ministerial Regulations;
- driving or controlling a forklift or a crane as prescribed in the Ministerial Regulations;
- work using an electric or motor saw;
- work that must be done underground, underwater, in a cave, tunnel or mountain shaft;
- work involving radioactivity as prescribed in the Ministerial Regulations;
- cleaning of machinery or engines while in operation;
- work which must be done on scaffolding ten meters or more above the ground; or
 - a slaughterhouse;
 - a gambling place;
 - a place of dancing, Ramwong or Rong Ngeng (traditional dances);
- a place of selling and serving food, liquor, tea or other beverage, with a pleasing person to treat customers, or with a place for relaxing, or a massage service for customers; or work that must be performed underground, underwater, in a cave, in a tunnel or in an confined place;
- work involving radioactivity;
- metal welding work;
- hazardous substance transportation work;
- hazardous chemical production work;
- work that must be done with an instrument or machine whereby the worker is exposed to vibration that may be harmful; and
- work involving extreme heat or cold that may be harmful, provided that the nature of the work is such that the Employee is highly exposed to danger or that the levels of exposure in the working environment exceed the safety standards prescribed in
 - work involving of heat, cold, vibration and noise which maybe harmful as follows:
 - work performed in a place where the temperature in the working environment is higher than 45 degrees Celsius;
 - work performed in cold storage in the production or preservation of food by freezing;
 - work using a pneumatic drill; and
 - work where the noise levels to which the Employee is exposed continuously is in excess of 85 decibels (A) for eight working hours a day;
 - work involving hazardous chemicals, poisonous substances, explosives or inflammable materials, as follows:
 - production or transportation of any substance that may cause cancer according to the list attached hereto;
 - work involving cyanide;
 - production or transportation of flares, fireworks or other explosives; and
 - exploration, drilling, refinery, filling or loading of fuel oil or gas, except for work in a fuel station;
 - work involving toxic microorganisms, which may be viruses,

bacteria, fungus or other germs, as follows:

- work performed in a diagnostic laboratory;
- taking care of a patient with a contagious disease under the law governing contagious diseases;
- cleaning of a patient's utensils and clothing in a medical establishment; and collection, transportation, or disposal of rubbish or waste in a medical establishment;
- driving or control of hoists or cranes operated by an engine or electricity, regardless of the manner of driving or control.

17. (U) The 1998 Labor Protection Act prohibits employers of children aged 15 - 17 from paying employee's wages to anyone else than the employee, and prohibits the demanding of sureties, bonds or other measures to hold children in the workplace. This legal restriction incorporates provisions of the ILO Convention 29 on Forced Labor, ratified by Thailand in 1969.

Limited Protection for Informal Sector

18. (U) The 1998 Labor Protection Act does not cover agricultural and informal sector (including domestic household) work, sectors which together employ about two-thirds of the workers in Thailand, and which have many workers in the 15 - 17 year age bracket - as well as underage workers. There are currently very limited legal protections for children in these sectors. Those protections only extend to national holidays being observed, and payment being made in the Thai national currency. To address this, MOL regulations were issued in early 2004 to increase protections for child workers in informal sector work. Regulations concerning agricultural workers are under review by the RTG Council of State, the government legal advisory agency. Hazardous work in the agricultural sector is identified in the draft regulations, and prohibitions against children/youth participation are made. NGOs active in child protection have urged, however, that the additional protections be made in the form of new laws rather than ministerial regulations. In their view, laws would ensure stricter implementation. Minimum age and wage protection, working hours, holidays, and proper welfare including food and medical treatment are priorities for reform, according to these activists.

Other Laws Affecting Child Labor

19. (U) A general commitment to maintaining the well-being of children, both Thai and foreign, in Thailand is contained in the reformist 1997 Constitution, which stipulates, "Children and youth(shall have the right to be protected by the State against violence and unfair treatment." The Constitution also increased mandatory education from six to nine years (a change implemented in 2002), and increased free education from 9 to 12 years.

10. (U) In addition to the Labor and Protection Act of 1998, other Thai laws provide for the protection of children include:

- The National Education Act (1999). Provides for free education lasting twelve years, and compulsory education of nine years.

- Amendment to the Penal Code (1999). Imposed more severe penalties on persons who sexually exploit girls under 15, and between 15-17 years old. Also penalizes violators who sell children to be beggars or to establishments which employ labor in a "cruel or hazardous fashion." Amends the Criminal Procedure Code of 1999 to institute child-friendly interview protocols for child victims of abuse, trafficking, and labor exploitation.

- Measures in the Prevention and Suppression of Trade in Women and Children Act (1997). Penalizes offenders who traffic children for sexual or labor exploitation. Provides for shelter and rehabilitation for child victims of labor abuse.

- Prevention and Suppression of Prostitution Act (1996). Increased protections for children who are victims of commercial sex, one of the worst forms of child labor.

- Anti - Money Laundering Act (1999). Provides for seizure of assets of persons who exploit children in the commercial sex and narcotics industries.

11. (U) In addition to these laws, in July 2003 the RTG signed a Memorandum of Understanding (MOU) with NGOs working in the field of child protection. The MOU spelled out improved procedures for handling Thai and foreign child victims of the worst forms of labor exploitation. The MOU

specifies which RTG agency is responsible for which aspect of the problem, and mandates cooperation between RTG officials and the thirty or so NGOs involved in this area.

¶12. (U) Implementation of the national MOU has been uneven, however. In the most visible incident, in September 2003 over a hundred Cambodian children found begging or peddling in urban areas were deported in a mass airlift to Phnom Penh, far from their homes in rural western Cambodia. No attempt was made to refer the children to NGOs for protective care and organized repatriation.

¶13. (U) In November 2004, the RTG implemented guidelines to improve the vetting of trafficking victims among child beggars and street vendors from Cambodia and Burma. Using a guide jointly developed by the Royal Thai Police and the International Organization for Migration (IOM), law enforcement officials (assisted by social workers and NGOs) now identify victims of trafficking and refer them to one of six regional government shelters. The victims are able to stay at the shelters during any subsequent prosecution of traffickers. Upon completion of their participation in any prosecution of traffickers, the victims are returned to their home country, preferably in the regional program implemented by IOM.

National Strategy to Define Worst Forms

¶14. (U) The Labor Protection Act and other Thai laws do not explicitly define the worst forms of child labor and hazardous work as defined by ILO Convention 182, which Thailand ratified in February 2001. The Ministry of Labor, with technical and financial assistance from the ILO, is developing a national strategy on eliminating the worst forms of child labor. The plan was adopted during public hearings in 2003. The appointment of a national - level implementing subcommittee was still pending in August 2005 after two changes in the Labor Minister position. Once the subcommittee is named, the National Strategy will be forwarded to the RTG Cabinet for final approval. That strategy identifies the worst forms of child labor, which include: commercial sex work, including participation in pornographic movies and still photographs; labor involving the sale or transport of illegal drugs; labor on fishing boats; and agricultural work in orchards. Once approved by the RTG Cabinet, relevant laws and regulations will be amended to reflect this new legal definition.

¶15. (U) In 2004, the RTG folded a National Policy and Plan of Action for the Prevention and Eradication of the Commercial Sexual Exploitation of Children into a larger National Plan on Trafficking in Women and Children. This plan addressed seven areas, namely: 1) prevention; 2) rescue and protection; 3) suppression and law enforcement; 4) repatriation and reintegration; 5) database system, monitoring, and assessment; 6) management mechanisms; and 7) international cooperation. The plan was approved by the RTG Cabinet in July 2003. A comprehensive plan of action (2005-2010) and indicators were developed in early 2005 concerning the seven outlined areas. The action plan will soon be forwarded to the Cabinet for approval and budget allocation. International and local Thai NGOs will assist the government in implementation of the plan.

Enforcement of Thai Labor Law

¶16. (U) While Thailand has fairly good child labor laws, enforcement of these laws is inadequate. Resource constraints in the RTG Ministry of Labor hampers enforcement of legal prohibitions against abuse of child labor. MOL inspections of workplaces have decreased significantly since 1997, due to budgetary constraints in the wake of Thailand's economic crisis. Child labor inspections have been reduced correspondingly, with only 1,241 workplaces inspected in 2004 compared to 2,670 in 1996. Twenty-one of the workplaces inspected showed serious violations, such as employing underage workers or exceeding legal work hour limits.

Legal Penalties for Child Labor Abuses

¶17. (U) Penalties for abuse of child labor under the 1998 Labor Protection Act are light and do not serve as an effective deterrent. Section 144 under the Act prescribes that any employer who violates the labor laws regarding a child employment must be penalized with imprisonment of not more than six months, or a fine not exceeding USD 2,440, or both.

¶18. (U) In practice, however, violators are issued a warning, with sporadic follow-up visits performed by MOL inspectors. Most discovered violations involve excessive

working hours or hazardous working conditions. If the violation causes physical or mental harm to an employee, or leads to the death of an employee, an employer may be penalized with imprisonment of not more than one year or a fine not exceeding USD 4,880 or both.

¶19. (U) In cases where torture or other forms of physical abuse (such as sexual exploitation) are involved, charges may be made under the Penal Code, which has more severe penalties. The Penal Code specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, degree of assault, and the physical and mental condition of the victim after the assault. Statutory rape of a child between 13-14 years of age is carries a sentence of 4 - 20 years imprisonment, and a fine ranging from USD 190 - ¶1952. If the victim is under 13, a conviction can result in a jail term from 7 years to life imprisonment.

¶20. (U) Penalties for trafficking in children, as set forth under the Prostitution Prevention and Suppression Act of 1996 and the Prevention and Suppression of Trafficking in Women and Children Act (1997), vary according to the age of the victim and the method of trafficking. For offenses against children between 15 and 18 years, the potential punishment is five to fifteen years of imprisonment and a fine of USD 2,273 to USD 9,091. If the offense is committed with deceit, threat, physical assault, immoral influence, or other mental coercion, the sentences and fines may be increased by one-third.

Hidden Workers: Child Domestic

¶21. (U) A 2002 survey by the RTG National Statistics Office reported 10,728 Thai children employed in domestic (household) labor, ranging in age from 12 - 17. Domestic workers present a special category of child worker, as they are largely immune from inspection by MOL officials and are offered few labor law protections. MOL labor inspectors must obtain a warrant to inspect a private household. In practice, this is a time consuming process not pursued unless there are compelling reasons to believe there are underage children on the premises, or there is physical abuse or indentured servitude. As economic development towards more skill-intensive, value-added industries increases, and educational opportunities broaden, fewer and fewer Thai children are employed in household work. A 2002 ILO rapid assessment suggested that the worst forms of child labor are not a concern among Thai children found in domestic work. This is because the communities of origin (primarily in the poorer northeastern section of the country) have developed mechanisms and social networks to ensure confidence in the recruitment and conditions of their children in this labor market.

Special Problems for Foreign Domestic

¶22. (U) These networks are not present for foreign children in domestic work in Thailand, however. Steady demand and fewer Thai children in the demographic pie have meant an increasing portion of child domestic workers are from neighboring Burma, Cambodia and Laos. In the employer registration period beginning June 30, 2005 (which will end August 31, 2005), the Ministry of Labor, as of mid-August, had received requests to employ 178,588 foreign domestic workers, of which permission was granted for 169,754 (95 percent). Although statistics are not available, NGO observers believe roughly one-quarter to one-third of foreign domestics are children younger than 18. This suggests there are perhaps 38,000 - 51,000 foreign children involved in household work in Thailand. Language barriers, lack of access to legal assistance, and their illegal status have made these foreign children vulnerable to exploitation. The exploitation takes several forms. Indentured servitude and excessive working hours are the most common, together with salaries far below minimum wage. In one ILO study group of 40 child workers in Thailand (half of whom were foreign), the daily wage averaged 75 cents, or about 20 percent of the legal minimum wage for formal sector workers in Bangkok. Many domestic child workers are also required to work in the employer's shop or small restaurant, meaning work days that last 12-15 hours, sometimes in hazardous conditions. The increasingly foreign composition of the child domestic labor force in Thailand has meant employers must keep their illegal charges in secret, often restricting them to a walled residence compound. This further limits information on the extent of the phenomenon, and limits assistance to victims of child labor abuse.

Reports of Physical Abuse

123. (U) There are no differentiated statistics on the number of child workers subject to physical abuse. What accountings that exist, either among RTG agencies or the 30 private organizations that provide assistance to children, are uncoordinated and mix domestic abuse cases into their data. The physical abuse of child workers appears to occur in a steady minority of cases, highlighted by periodic press and NGO reports.

Worst Form of Child Labor - Drug Trade

124. (U) Thammasat University research in 1999 found that 663,290 students at all educational levels were involved in drugs nationwide. There is no estimate of how many of these students were 17 years and younger. In 2002, a total of 7,428 children were prosecuted for drug - related offenses, including 1,299 for selling narcotics. An August, 2002 USDOL - funded rapid assessment of 100 children involved in the drug trade in the Bangkok metropolitan area provided insight into the extent of involvement in this worst form of child labor. The majority in the sample group were 14 - 17 years of age, male, Thai nationality, and had left school before the mandatory nine years. Most children acting as "runners" (middle men between drug sellers and drug abusers) are recruited by older acquaintances/friends in the community, and retain a small profit from the drug sold (mostly methamphetamines.) In some cases, older children aged 16 - 17 deliver drugs between a major distributor and a local seller. Children are preferred as runners and deliverers by narcotics merchants because they are undemanding, and are normally not charged as adults if arrested. Instead, they are remanded to police-run correctional homes.

Worst Form of Child Labor - Peddling and Begging

125. (U) Thai police continued to find foreign children involved in peddling and begging on urban streets. In September 2003, in an effort to "clean" streets in Bangkok prior to an international meeting, over one hundred children were detained and deported to Cambodia. The incident highlighted the increasing problem of foreign children employed in peddling and begging in Thailand. RTG statistics suggest the number of foreign child beggars has increased 40 percent since 1997, many brought to Thailand in organized trafficking schemes. Total numbers of current child street workers are not known, and the RTG immigration police do not segregate data on deportees by age. The children, evenly split between boys and girls, were employed in begging and selling flowers in urban areas such as Bangkok and Chiang Mai. An ILO study suggested wages averaged USD 5 per day, but noted that income likely included extra earnings realized through sexual exploitation, a danger street children are particularly susceptible to.

126. (U) In general, working conditions for these children peddlers and beggars are difficult and dangerous. In addition to the exposure to sexual abuse by customers in bars and shopping centers, small children must walk through heavy traffic to sell their goods to motorists. Exhaust fumes and accidents pose serious health hazards. In a minority of cases, child street workers are recruited into the criminally controlled paedophilia market in places like the resort city of Pattaya. Psychological harm and associated drug abuse, and diseases such as AIDS, are common among exploited children in this group.

Worst form of Child Labor - Prostitution

127. (U) Estimates of the number of children involved in prostitution in Thailand vary widely. In 2002, sensationalistic press and NGO accounts suggested that up to one million children were involved in the sex industry in Thailand. Knowledgeable UN and NGO observers, however, discount such estimates as greatly exaggerated. A survey by the RTG Public Health Ministry in 1999 estimated that there were 12,000 - 18,000 child prostitutes in the country. The RTG Office of the National Commission on Women's Affairs reported a year later that about 20 percent of Thailand's Thai sex workers were under 18 years of age, or about 22,500 - 40,000. This estimate does not include non-Thai children in prostitution, a proportion NGOs and RTG health representatives feel is increasing. A significant number of child prostitutes, perhaps more than half, are non-Thai citizens. The major source country is Burma, followed by Laos and Cambodia. Yunnan province in southern China is also an increasing source of child prostitutes. In addition, children from ethnic minority groups resident in Thailand, including an estimated 200 - 300,000 highland people who do

not have legal status, have disproportionately large representation in the commercial sex industry. UN agencies and NGOs have identified this latter group's lack of access to legal status in Thailand as a major contributing factor towards this disturbing trend. Most children in prostitution in Thailand are girls in the 14 - 17 year old age range. However, a significant minority of pre-pubescent boys are exploited by organized pedophile rings in Bangkok and smaller cities such as Chiang Mai and Pattaya.

Social Programs to Prevent Child Labor

¶28. (U) There were no government - sponsored education campaigns on the worst forms of child labor during the past year. This role was filled by NGOs and international organizations, which are active in the field. The RTG entered into cooperative arrangements with local industries (especially the hotel industry) to encourage youth (particularly girls) to find employment outside of the sex industry and other areas of exploitative work. Vocational training programs, aimed at newly graduating high school students, also received funding during the past year. Although the vocational training is not intended explicitly for prevention of the worst forms of child labor, the practical effect is to increase the range of decent work choices for recent school graduates. These programs are only intended for Thai youth, however, and do not have an impact on the increasing large proportion of non-Thai children found in exploitative work.

¶29. (U) The RTG established an annual quota of 200,000 scholarships for poor Thai and stateless children (i.e., children of ethnic minorities born in Thailand but not eligible for Thai citizenship.) The intent of the scholarship program is to provide educational opportunities for children who otherwise might be forced by financial circumstances to find work.

¶30. (U) In addition to these efforts, the RTG implemented the following continuing measures:

- 60,000 community leaders in villages throughout the country have been appointed "labor volunteers" to increase grassroots involvement to prevent child labor;
- each of Thailand's 77 provinces have Woman and Child Labor Assistance centers, staffed by RTG officials and NGO representatives.
- The MOL funds an outreach program, traveling to villages nationwide to disseminate information on child labor.

Funding levels for these initiatives are not available.

Other Government Measures to Address Child Work

¶31. (U) The National Thai Working Group to Combat the Trafficking of Women and Children (TWG) coordinates the wide range of RTG ministries and agencies with overlapping responsibilities in addressing child labor exploitation and associated trafficking in persons. The TWG is tasked with the development and coordination of national responses of both government agencies and NGOs to combat trafficking in Thailand. UNICEF, IOM and other international organizations are represented in the working group. The TWG has, in cooperation with NGOs and international organizations, pushed the drafting of an effective legislative and regulatory framework, including several MOUs on procedures and coordination between RTG agencies, and capability building of law enforcement.